Applicant : Carl de Marcken et al.   Attorney's Docket No.: 09765-0036001
Serial No. : 10/714,525
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REMARKS

Summary of Examiner Interview

Applicant thanks Examiner Daniel Vetter and Examiner Igor Borissov for the opportunity of the telephonic interview conducted on March 10, 2009. Applicant was represented by Mr. Denis Maloney, the undersigned, and Mr. Indranil Sarkar, who is assisting the undersigned.

The 35 U.S.C. 101 rejections were discussed and Applicant proposed amendments to overcome the rejections. The Examiner agreed that the proposed amendments would overcome the rejection and those amendments have been incorporated in the claims.

The 35 U.S.C. 112 rejections were also discussed. Specifically, with respect to claims 37, Applicant proposed claim amendments to overcome the 35 U.S.C. 112 second paragraph rejections. The Examiner agreed with the proposed amendments, which have been incorporated in the claims accordingly.

The prior art rejection over Jones (U.S. 2002/0111935) was also discussed. Applicant explained how Jones is not understood to disclose or suggest determining constraints on sequences of flights between the endpoints of the trip segments, the constraints derived from properties of fares that can be used with the flights. The Examiner disagreed with the Applicants reasoning and maintained that the rejections over Jones are proper. The Examiner further indicated that further amendments may be helpful in moving prosecution forward.

Claim Rejections – 35 U.S.C. §101

The examiner rejected Claims 57-62 and 68-76 under 35 U.S.C. §101 as directed to non-statutory subject matter.

Applicant amended claim 57 to recite "a computer implemented method for producing itineraries" that includes, *inter alia*, "receiving, by a computer, trip segments," and "determining, by a computer, geographic and airline constraints derived from fare rules to control the manner in which flights are combined prior to the evaluation of fare rules."

Applicant contends that claim 57, as amended, is directed to statutory subject matter as are Claims 58-62 which depend directly or indirectly from claim 57.

Applicant also amended claim 68 to recite "a computer implemented method for producing itineraries" that includes, *inter alia*, "receiving, by a computer, trip segments," and "determining, by a computer, constraints on sequences of flights, between the endpoints of the trip segments the constraints derived from properties of fares that can be used with the flights."

Applicant contends that claim 68, as amended, is directed to statutory subject matter as are Claims 69-76 which depend directly or indirectly from claim 68.

Claim Rejections – 35 U.S.C. §112

The examiner rejected Claims 37 and 40 under 35 U.S.C. §112, second paragraph, as bring indefinite.

Claim 37 has been amended to recite instructions to "price additional itineraries generated without considering the constraints," and "return the additional priced itineraries."

Claim 40 has also been amended to recite instructions to "price the additional itineraries from flights without considering the constraints and with considering the constraints," and "return the priced additional itineraries."

Applicant contends that these amendments adequately address the issues raised by the Examiner and requests the Examiner to withdraw these rejections.

Claim Rejections – 35 U.S.C. §102

The Examiner rejected claims 21-28, 32, 34-46, 51-55, 57-61 and 63-76 under 35 U.S.C. 102(b) as being anticipated by Jones (U.S. 2002/0111935).

Claim 21

With respect to claim 21, the Examiner states:

> **Jones et al ('935) discloses:**
> **receiving trip segments, see figure 3 (300);**
> **determining constraints on sequences of flights between the endpoints**
> **of the trip segments, the constraints derived from properties of fares that**
> **can be used with the flights, see (302), (306);**
> **generating itineraries from flights using the constraints, see (310); and**
> **pricing the itineraries, see figure 6 (600).**

Applicant has amended claim 21 to recite instructions to "determine constraints on sequences of flights between the endpoints of the trip segments, the constraints derived from fares between the end points of the trip segments, which can be used with the flights to connect the end points of the trip segments, generate itineraries … using the constraints to select which flights to include in the sequences of flights of the generated itineraries." Applicant submits that Jones fails to disclose or teach at least the foregoing features of amended claim 21.

Rather, Jones considers all possible connection points for a given departure city and a arrival city and does not have any teachings about using fares between end points of a trip segment; "**Connect point data 206 is a data feed of all possible connection points for a given departure city and arrival city, as provided by connect point interface 18.**"[1] While Jones uses a fare data feed and a rules data feed, these data feeds do not provide fare information between end points of trip segments. Rather these feeds simply provide information on fares and associated restrictions that can be used for different flights. Routing rules used by Jones place restrictions on cities and routes that may be used for planning an itinerary but fail to take into account constraints derived from fares that are available between the end points of the trip segments and are clearly not used to generate itineraries using the constraints to select which flights to include in the sequences of flights of the generated itineraries.

As described by Jones:

> These other data feeds comprise fare data 222 and rules data 224. Fare data feed 222 represents the fares that can be applied to various flights, and rules data feed 224 represents the rules for applying fares to various flights. Routing rules 226 place restrictions on the cities and routes that may be used for planning an itinerary. Finally, flight applicability data 228 qualify the application of certain fares to the various cities and routes. Flight applicability data 228 typically comprise data from travel providers denoting restrictions on applying certain fares to certain flights.[2]

None of the data used by Jones is related to fares between end points of trip segments. Rather, Jones builds and prices itineraries based on the fare data feed, rules data feed and routing rules and qualifies the priced itinerary after the fact using the flight applicability data. Jones has

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[1] Jones, paragraph [0040]
[2] _Id._, paragraph [0043]

no teachings to use a fare between the endpoints of a trip segment or to generate itineraries using the constraints to select which flights to include in the sequences of flights of the generated itineraries.

Applicant submits that amended independent claim 21 is patentable for at least the foregoing reasons. Claims 22-28, 32 and 34-40 are patentable for at least the reasons for which claim 21 is patentable.

Claim 41

Applicant has amended claim 41 to recite an apparatus that includes a computer program product to "determine constraints on sequences of flights between the endpoints of the trip segments, the constraints derived from fares between the end points of the trip segments, which can be used with the flights to connect the end points of the trip segments and generate itineraries … using the constraints to select which flights to include … ."

Claim 41 is therefore patentable for at least analogous reasons mentioned with respect to claim 21. Claims 42-46 are patentable for at least the reasons for which claim 41 is patentable.

Claim 51

Applicant has amended claim 51 to recite instructions to "determine geographic and airline constraints derived from available fares to control the manner in which flights are combined prior to evaluation of fare rules"

Jones fails to suggest, much less disclose the foregoing feature of amended independent claim 51. As mentioned above with respect to claim 21, Jones uses fare rules to determine and price itineraries. Jones has no teachings related to instructions to control the manner in which flights are combined *prior* to evaluation of fare rules. Rather, Jones requires to use the fare rules to build the itinerary, or in other words, control the manner in which flights are combined. As described by Jones:

> All of the data, including fare data 222, rules 224, routing rules 226, and flight applicability data 228, are routed into automatic loader 230. Once it receives this information, automatic loader 230 reacts to the input of data for any of these various sources. Automatic loader 230 moves data into data converters 232 to

> **translate raw data into database format. Once converters 232 have completed the**
> **translation, they feed data in data base format to the fare portion 14B.** [3]

Therefore, amended claim 51 is patentable over Jones for at least the foregoing reasons.
Claims 52-55 are patentable for at least the reasons for which claim 51 is patentable.

Claim 57

Applicant has amended claim 57 to recite a computer implemented method that includes
"determining, by a computer, geographic and airline constraints derived from available fares to
control the manner in which flights are combined prior to evaluation of fare rules."

Applicant submits that claim 57 is patentable for at least analogous reasons for which
claim 51 is patentable. Claims 58-61 are patentable for at least the reasons for which claim 57 is
patentable.

Claim 63

Applicant has amended claim 63 to recite a computer program product that includes
instructions to "determine constraints on sequences of flights, between the endpoints of the trip
segments the constraints derived from fares that can be used to connect the end points of the trip
segments, generate itineraries … constrained by multiple constraints … to select which flights to
include in the sequences of flights of the generated itineraries."

Applicant submits that claim 63 is patentable for at least analogous reasons for which
claim 21 is patentable. Claims 64-67 are patentable for at least the reasons for which claim 63 is
patentable.

Claim 68

Applicant has amended claim 68 to recite a computer implemented method that includes
"determining, by a computer, constraints on sequences of flights, between the endpoints of the
trip segments the constraints derived from fares that can be used to connect the end points of the

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[3] *Id.*, paragraph [0044]

trip segments, generating itineraries … constrained by multiple constraints … to select which flights to include in the sequences of flights of the generated itineraries."

Applicant submits that claim 68 is patentable for at least analogous reasons for which claim 21 is patentable. Claims 69-76 are patentable for at least the reasons for which claim 68 is patentable.

Claim Rejections – 35 U.S.C. §103

The Examiner rejected claims 29, 33, 47, 50, 56 and 62 under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Tanner (WO 01/59590). The Examiner rejected claims 30 and 48 under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Official Notice considered admitted prior art. The Examiner also rejected claims 31 and 49 under 35 U.S.C. 103(a) as being unpatentable over Jones in view of the Travel Gazette.

Applicant submits that 29, 30-31, 33, 47, 48-50, 56 and 62 are patentable for at least the reasons for which the claims that they depend on are patentable.

The $490 fee for the Petition for Extension of Time fee is being paid concurrently on the electronic filing system by way of deposit account authorization. Please apply and any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: April 1, 2009   /Denis G. Maloney/
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